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09/520,405	03/08/2000	Michael G. Martinek	IGT1P369/SH00052-001	1300

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Weaver Austin Villeneuve & Sampson LLP - IGT  
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EXAMINER
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LEIVA, FRANK M

ART UNIT	PAPER NUMBER
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3717

NOTIFICATION DATE	DELIVERY MODE
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06/06/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@wavsip.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/520,405	<b>Applicant(s)</b> MARTINEK ET AL.	
	<b>Examiner</b> FRANK M. LEIVA	<b>Art Unit</b> 3717	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 58-70, 74-76, 78, 79 and 81-83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 58-70, 74-76, 78, 79 and 81-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/20/2011</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Acknowledgements***

1. The examiner acknowledges amendments to claims 58, 69, 70, 76 and 81 in applicant's submission filed 28 April 2011. Remaining pending claims are 58-70, 74-76, 78-79 and 81-83.

### ***Response to Arguments***

2. Applicant's arguments; see remarks filed 28 April 2011, with respect to the objection and 35 USC §112 2<sup>nd</sup> rejection of claim 81 have been fully considered and are persuasive. The objection and 35 USC §112 2<sup>nd</sup> rejection of claim 81 have been withdrawn.

3. Applicant's arguments with respect to the 35 USC §103 rejections of pending claims 58-70, 74-76, 78-79 and 81-83 are directed to the submitted amended limitations and will be reviewed on the merits below, hence been considered moot in view of further review.

4. The examiner wishes to make a distinction raised by the applicant in page 9 of the remarks; *"While the operating system subroutines described by Suzuki "handle access to various peripherals" (Suzuki; Col. 27, lines 51-52), they are not described in Suzuki as "functional units of game code that provide different feature sets of the same computerized wagering game," as recited in claim 58. As discussed above, the operating system subroutines may "perform actual operations based on instructions from the kernel." (Suzuki; Col. 27, line 49). However there is no disclosure or suggestion in Suzuki that they may "provide a first feature set of a computerized wagering game," as recited in claim 58."* (Emphasis added) The applicant hereby is made aware that a reference does not have to describe the functioning of the invention in the same manner as to say "functional units of game code" to teach the same aspect, for two different poets may describe a sunrise as a gigantic ball of fire rising from the horizon or a spectacular show of colors burning the sky; they are both describing the same process occurring, such as to handle access to various peripherals takes place in program code, the code being functional or interactive

or reactive to the needs of the peripherals and the controller, and feature sets only goes as far as to be specific for that peripheral (or feature).

### ***Drawings***

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the newly added limitations “the bonus gaming shared object”, “the first and second feature sets”, “the plurality of computerized wagering games”, including but not limited to the respective connections and process steps of writing, loading and executing” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. **Claim 78** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 78 is directed to transitory signals such as computer readable media or a set of instructions (such as a game or software per se) are not included in the four patent eligible subject matter categories, and needs to be amended to include “a non-transitory computer readable media” if covered by the specifications.

***Claim Rejections - 35 USC § 112 1<sup>st</sup> paragraph***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. **Claims 58 and 76** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 58 and 76 limitations read as follows:

a. “a first feature set and a second feature set”, from which a plurality of feature sets, are not describe. There is only defined in the written description a feature set defining a program shared object, so define a first second or third would imply a group of a plurality of feature sets separate from the set associated with the single program shared object and would add new matter to the specification description.

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- b. “a bonus gaming program shared object”, which give new meaning to having different types of program shared objects and not just all executable in the same fashion. What is the difference between a bonus gaming program shared object and a gaming program shared object. Not described is specification.
- c. “wherein each of the plurality gaming program shared objects is configured to provide a feature set for a plurality of computerized wagering games controlled by the computerized game controller”, (emphasis added), implying that a single gaming program shared object can provide a feature set to more than one wagering game, this adds new matter not enabled in the written description.
- d. “comprising a game state storage, a non-volatile storage” where the written specification has only game state data stored in a non-volatile storage. New matter is disclosed.
- e. “operable to control a plurality of computerized wagering games” where the written description does not mention the present application being used in a multi-game platform, thus new matter.

***Claim Rejections - 35 USC § 112 2<sup>nd</sup> Paragraph***

- 10. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 11. **Claim 58** recites the limitation “said gaming program shared objects” in lines 12 and 15. There is insufficient antecedent basis for this limitation.
- 12. **Claim 61** recites the limitation “the gaming program shared objects” in line 2. There is insufficient antecedent basis for this limitation.
- 13. **Claim 63** recites the limitation “the gaming program shared objects” in line 3. There is insufficient antecedent basis for this limitation.

**14. Claim 82** recites the limitation “the gaming program shared objects” in line 2. There is insufficient antecedent basis for this limitation.

**15. Claim 83** recites the limitation “the gaming program shared objects” in line 2. There is insufficient antecedent basis for this limitation.

**16. Claim 58** recites the limitation “a gaming program shared object” in line 19 and “a bonus gaming program shared object in line 25; since a bonus gaming program shared object is a gaming program shared object the recitations of “the gaming program shared object” in lines 26 and 29 of claim 58 and any recitation following claim 58 are indefinite for failing to point out which gaming program shared object it refers to.

### ***Claim Rejections - 35 USC § 103***

**17.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**18. Claims 58-70, 74-76, 78-79 and 81-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 5,592,609) in view of Mastera et al. (US 6,315,666 B1).**

**19.** Regarding the analogous art combination; Suzuki as applied above discloses a video game graphics program that loads program objects to be executed; and Mastera discloses a wagering game that loads Bonus gaming objects into the working ram to be executed.

**20. Regarding claims 58, 76 and 78;** Suzuki discloses a computerized game apparatus, comprising a computerized game controller (game processor), comprising a processor with a memory (RAM cassette 4) and an operating system stored in said

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memory, the controller further comprising a game state storage, a nonvolatile storage (floppy disk 8);

an operating system (system operation) that runs on the computerized game controller, (col. 5:19-43), the operating system comprising an operating system kernel and a system handler application, (col. 27:40-52), the operating system kernel and system handler application operable: to dynamically link with a plurality of gaming program shared objects and device handlers for the computerized wagering game, (col. 27:40-52), at run time when the computerized game is executed in a manner that allows the plurality of gaming program shared objects (operating system subroutines) to call a set of common functions effectively provided by the system handler application when the system handler application is executed, (col. 27:40-52), and load said gaming program shared objects and device handlers, (col. 27:40- 28:7);

the system handler application comprising an Application Program Interface, (game CPU interface 272), comprising functions callable from the gaming program shared objects (such as debug functions), the Application Program Interface comprising a plurality of gaming functions callable by and used by the plurality of the gaming program shared objects (buffers drivers, debug subroutines, copy Ram, or system break routines), the plurality of functions stored in the computerized game controller, (col. 21:37-64);

the system handler application operable to load and execute a gaming program shared object based on game data variables stored in the nonvolatile storage, (col. 5:19-43), wherein the gaming program shared object is configured to provide a first feature set of a computerized wagering game, (col. 27:44-52), wherein a feature set is a peripheral specific set;

write the game data variables (game information) to at least one of the game state storage and nonvolatile storage when the gaming program shared object is executed, (col. 11:30-44);

Suzuki is silent to the computerized game being a wagering game, and the computerized game controller being operable to control a plurality of computerized wagering games, while Mastera discloses a wagering game that uses game routines or



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game objects and loads a bonus gaming program shared object, in response to a change in the stored game data variables by at least the gaming program shared object, (col. 13:5-20), the bonus shared object the bonus gaming program shared object configured to provide a second feature set (new animations) of the computerized wagering game, (col. 13:5-20);

wherein the gaming program shared object and the bonus gaming program shared object are functional units of game code that provide different feature sets of the same computerized wagering game, and wherein each of the plurality gaming program shared objects is configured to provide a feature set for a plurality of computerized wagering games controlled by the computerized game controller, (col. 13:5-20); and

execute the bonus gaming program shared object, thereby changing a feature set associated with the computerized wagering game from the first feature set to the second feature set such that game play of the computerized wagering game changes functionality, (fig. 10 and col. 19:54-col. 20:16); and

the computerized game controller being operable to control a plurality of computerized wagering games, (col. 6:10-15).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the Suzuki's invention to include the common wagering multi-games of Mastera and use bonus gaming objects in the invention as it is a well-known state of the art technique for maintaining player interest in the game.

**21. Regarding claim 59;** Suzuki and Mastera disclose all the limitation of claim 1 from which claim 59 depends, and Mastera further discloses wherein the game data variables comprise meter information, data to recreate the computerized wagering game upon power loss, game history, currency history, credit information, ticket printing history, or a combination thereof, (col. 9:23-35 and col. 13:5-20).

**22. Regarding claim 60;** Suzuki discloses wherein the system handler application comprises software having the ability when executed to: unload a previous gaming program shared object or device handler if a previous object or device handler has been

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loaded; load a new gaming program shared object or device handler; and execute the new gaming program shared object or device handler. (col. 28:23-36).

**23. Regarding claim 61;** Suzuki discloses wherein data variables modified by the gaming program shared objects are stored by the system handler application in the nonvolatile storage and a game state storage, and the system handler application functions to verify that the operating system or code for a shared object has not changed, (col. 1:51-2:4).

**24. Regarding claim 62;** Suzuki discloses wherein the game state storage provides a variable name index to associated variable data locations within the nonvolatile storage, (col. 14:49-65 and 12:12-23).

**25. Regarding claim 63;** Suzuki discloses wherein changing a data variable in nonvolatile storage causes execution of a corresponding callback function in one of the gaming program shared objects of the system handler application, (col. 2:34-59).

**26. Regarding claim 64;** Suzuki discloses wherein the computerized game controller comprises general purpose computer system, (col. 26:56-60).

**27. Regarding claim 65;** Suzuki discloses wherein the operating system kernel is configured to execute user level code out of ROM, (col. 27:-40-52 and col. 26:22-30).

**28. Regarding claim 66;** Suzuki discloses wherein the operating system kernel has at least one selected device handler disabled, (col. 32:40-45).

**29. Regarding claim 67;** Suzuki discloses wherein the at least one selected device handler that is disabled is selected from the group consisting of a keyboard handler, an I/O port handler, a network interface handler, a storage device controller handler, and a I/O device handler, (col. 3:5-14).

**30. Regarding claim 68;** Suzuki discloses wherein the system handler application and the operating system kernel work in communication to hash system handler application code and operating system kernel code, (col. 27:40-52).

**31. Regarding claim 69;** Suzuki discloses wherein the operating system is controlled by a general-purpose computer and the nonvolatile storage stores program variables, such that loss of power does not result in loss of the state of the computerized wagering game system, and the system handler application loads a first gaming program shared object and the first gaming program shared object calls up a gaming function from within an Application Program Interface, (col. 22:8-34).

**32. Regarding claim 70;** Suzuki discloses wherein the system application handler loads and executes a single gaming program shared object at any one time, and wherein the system application handler shares data with at least one other gaming program shared object upon execution of the at least one other gaming program shared object, (col. 2:60-3:14).

**33. Regarding claim 74;** Suzuki discloses wherein the wagering game comprises a plurality of segments each comprising a gaming program shared object, wherein the system handler is operable to dynamically change the wagering game from one of the plurality of segments to another of the plurality of segments in response to the change in the stored game data variables, (col. 2:46-59).

**34. Regarding claim 75;** Suzuki discloses wherein the system handler is operable to dynamically change the segment of the wagering game in response to a change in at least one of the device handlers, (col. 11:45-61).

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**35. Regarding claim 79;** Suzuki discloses further comprising a housing that contains the computerized game controller, including the operating system, the system handler application and the plurality of functions, (fig. 1A; console).

**36. Regarding claim 81;** Suzuki and Mastera disclose all the limitations of claim 58 as applied above, and Mastera further discloses wherein the gaming program shared object is unloaded and the bonus gaming program shared object is loaded upon changing from normal game operation to bonus operation, with relevant data for the gaming program shared object and the bonus gaming program shared object stored in nonvolatile storage, (col. 12:35-57 and col. 13:5-20).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the Suzuki invention to include the common use of bonus gaming objects in the invention as it is a well-known state of the art technique for maintaining player interest in the game.

**37. Regarding claim 82;** Suzuki discloses wherein said gaming program shared objects are loaded and executed one at a time, (col. 2:46-55) shows the objects being loaded one at a time following certain steps.

**38. Regarding claim 83;** Suzuki discloses wherein the gaming program shared objects share data only through the game data storage, (col. 2:46-55) as covered by the reference all the objects data sharing is performed using solely the game data storage; that is the floppy, the cartridge and the system RAM.

#### ***Examiner's Note***

**39.** The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art

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reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed .... "In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-F 11:00 am - 4:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Melba Bumgarner can be reached on (571) 272-4709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melba Bumgarner/

Supervisory Patent Examiner, Art Unit 3717

/F. M. L./

Examiner, Art Unit 3717